



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/130,418	08/06/98	SHEA	P 97-1211

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PMC1/0401

EXAMINER

BARFIELD, A

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 04/01/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/130,418

Applicant(s)
Paul H. Shea

Examiner
Anthony Barfield

Group Art Unit
3624



☒ Responsive to communication(s) filed on Jan 21, 1999

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Davidson.

Davidson discloses a folding seat assembly for a vehicle comprising a seat back (12) having a seat bottom (16) pivotally mounted thereto, and a detent mechanism (24,34,38,40) for providing a resistance to the seat bottom when the seat is folded in an upright position and in a seating position. Davidson further discloses the use of an inertia latch (26) for engaging the seat bottom in the upright position during a rapid deceleration of the vehicle.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Groce et al.

Groce et al discloses a folding seat assembly (10) in an extended cab truck comprising a seat back (34) having a seat bottom (32) pivotally mounted thereto, and a detent mechanism (36) for providing a resistance to the seat bottom when the seat is folded in an upright position and in a seating position. Groce et al further discloses the use of an inertia latch (38) for engaging the seat bottom in the upright position during a rapid deceleration of the vehicle.

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Response to Arguments

4. Applicant's arguments filed 1/21/99 have been fully considered but they are not persuasive.

In response to applicant's argument that Davidson shows an arm rest (16) and not a seat bottom, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). The examiner is of the opinion that the element (16) is in fact a seat bottom, as this type of armrest commonly functions as a child booster seat. Applicant is informed that a seat is commonly, defined as an object which may be sat upon.

In response to applicant's argument that "the inertial latch...does not engage the seat bottom" as disclosed by Groce et al, applicant is informed that the word "engage" means to interlock or "cause" to interlock (*Webster's II New Riverside University Dictionary*). The examiner is of the opinion, upon given its broad interpretation that the "seat bottom" is in fact engaged (or caused to be interlocked with the seatback) in the upright position by the inertia latch (see col.5 line 26) 38, which is connected to the backwall (44) of the seat bottom frame (30). Applicant has not recited any "direct" (or surface) contact between the inertial latch mechanism and seat bottom. In response to applicant's argument "that Groce et al fails to teach or suggest

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an inertia latch mechanism...in response to a rapid deceleration”, applicant is informed that any sudden ”lateral impact force” applied to a moving vehicle will cause a “rapid deceleration” of the vehicle, therefore the inertia latch of Groce et al would act to engage the seat bottom in the folded position, upon “the rapid deceleration” of the vehicle due to a lateral force. Finally, applicant has not disclosed any directional force (i.e., frontal or rear impact) for causing the rapid deceleration of the vehicle, in the claims.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Barfield whose telephone number is (703) 308-2158.

adb

March 31, 1999



Anthony D. Barfield
Patent Examiner